

RESPONSE UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 09/533,678

Turning to the merits of the Office Action, claims 1-15 remain pending in the application. Claims 1-2, 7-8 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hatori (U.S.P. 6,195,198). Claims 3-4, 5-6, 9-10 and 12-15 have been rejected under 35 U.S.C. § 103 as being unpatentable over Hatori in view of Mizuuchi et al. (U.S.P. 6,002,515, hereafter "Mizuuchi"). Applicant submits the following arguments in traversal of the art rejections.

Applicant notes that the Hatori patent appears to name the same inventor as that named in the present application. Furthermore, contrary to the Examiner's characterization of the cited Hatori patent, the U.S. patent reference was not published more than one year prior to the filing date of the present application. Therefore, the Hatori patent is clearly not a proper reference under Section 102(b). Further, the fact that the Hatori patent shares the same inventorship as the present application would render the patent inapplicable as a reference under Sections 102(a) and 102(e) which only permits the application of subject matter known or patented by "another."

In this connection, Applicant has verified the common inventorship between the applied patent (U.S.P. 6,195,198) and the present application. Because the inventorship between the application and the patent are the same, Applicant notes the inapplicability of the primary Hatori reference in the present circumstance. An executed declaration indicating the common inventorship is submitted herewith.

Applicant submits that any new rejections should be made on a non-final basis.

In view of the above, Applicant submits that claims 1-15 are in condition for allowance. Therefore it is respectfully requested that the subject application be passed to issue at the earliest

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possible time. The Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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